



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,440	02/14/2006	Hideyuki Shimonishi	Q93191	1002
23373 7590 06/15/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
NG, FAN				
ART UNIT		PAPER NUMBER		
2416				
MAIL DATE		DELIVERY MODE		
06/15/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,440

Applicant(s)

SHIMONISHI ET AL.

Examiner

Fan Ng

Art Unit

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-8, 12, 14-27, 31, 33-38 is/are rejected.
7) ☒ Claim(s) 9-11, 13, 28-30 and 32 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 04/16/2009 have been fully considered but they are not persuasive.

Applicant argued on page 23, 1st paragraph that Sandoval fail to teach: reception session processing means, second, transmission buffering means and transmission session processing means.

The examiner respectively disagrees:

First, **element #122** in Sandoval's fig.1 is reception session processing means because **#122** receives the packet from transmission terminal **#102** and processes the packet to the receiver **#108**.

Second, transmission buffering is inside the transmission terminal **#102**, because sender must have buffer to store its data before transmission.

Third, in **Fig. 1, (#120)** is transmission session processing means, because it receives data from reception terminal **#104**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 15, 22, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandoval (6990073) in view of Tobagi et al. (20020080721).

Regarding to amended claim 3, Sandoval teaches reception session (**Fig. 1, #122: the reception session**) processing means for receiving data from the transmission terminal (**reception session #122 is receiving data from #102 the transmission terminal**),

Transmission buffering means for temporarily storing the data received from the transmission terminal (**transmission terminal is inside #102, which can be the source of the data**) in a transmission buffer (**it is inherent that a transmission terminal has a transmission buffer and this buffer stored the data from the source, note both #transmission buffer and transmission terminal are inside #102**),

Transmission session (**#120**) processing means for receiving data from the reception terminal (**transmission session #120 is receiving data from #104 the reception terminal**),

Wherein the transmission session (**#120**) processing means calculates an amount of transmissible data (**Fig. 2, #132 the number of packet stored in #126 is monitored (calculated), here the transmissible data is the data stored in #126**) based on the data based on the data received from the reception terminal (**the calculation is based on the data received from Fig. 1, #104 (the reception terminal)**);

Packet scheduling means for controlling delivery of the data stored in the transmission buffer (**Fig. 2, #146, #150 the sender (transmission buffer) is notified (controlled)**), based on the amount of transmissible data (**the controlling is based on the transmissible data #126**); and

Delivery control means for delivering the data stored in the transmission buffer in response to the control of the packet scheduling means (**Fig. 2, #142, permit additional packet into the buffer, where the packet is delivery from transmission buffer inside #102 to #126**).

Where Sandoval does not have a packet scheduling component, but Tobagi teaches the packet scheduling at (**Fig. 6, #610**). Thus, it would have been obvious for one of

ordinary skill in the art to implement Tobagi into Sandoval, since both arts are in the same field of endeavor and Sandoval suggest a method to reduce congestion and has the function of packet scheduling as described in claim 3, but Sandoval does not disclose an packet scheduling component in the relay and Tobagi teaches the actual component of packet scheduling, since one has the functionality and one has the actual component, they are obvious to combine.

Allowable Subject Matter

1. Claims 9-11, 13, 28-30, 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fan Ng whose telephone number is (571) 270-3690. The examiner can normally be reached on Monday-Friday; 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. N./
Examiner, Art Unit 2416

/Chi H Pham/
Supervisory Patent Examiner, Art
Unit 2416
6/12/09